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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Coordination Proceeding)	JCCP 4003
Special Title (Rule 1550(b)))	
IN RE COORDINATED LATEX GLOVE)	CASE MANAGEMENT ORDER NO. 1
CASES)	
<hr/>		
GENERIC FILING)	
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1 I.

2 **SCOPE**

3 This Case Management Order, and any additional case management orders, shall control
4 the procedure for the litigation of all current and future latex glove cases¹ coordinated in
5 California pursuant to Code of Civil Procedure, Section 404, *et seq.* The procedures and
6 protocols contained in this Order shall supersede any and all conflicting provisions of the Code of
7 Civil Procedure, the Rules of Court, the local rules of the various counties, and any other
8 statutory, judicial, or regulatory provisions.

9 This Case Management Order, and any additional case management orders, apply(ies) to
10 all cases identified in the Order of the Judicial Council dated June 20, 1997, a copy of which is
11 attached hereto as Exhibit "A", appointing the Honorable William C. Pate as "coordination trial
12 judge". This Order will also apply to any case subject to the add-on provisions of the coordination
13 rules outlined in California Rules of Court, Rule 1544, and various provisions of this Order. The
14 Order Assigning Coordination Trial Judge in general, and implementation of this Case
15 Management Order in particular, does not constitute a determination that any of the coordinated
16 actions should be consolidated for trial, and does not have the effect of making any entity a party
17 to an action in which it has not been named and served.

18 II.

19 **MODIFICATION**

20 Any party may petition the coordination trial judge, through noticed motion, for
21 amendment to or modification of this or any additional orders subsequent to their implementation.
22 The parties to any individual latex glove case coming within the purview of this Order may
23
24

25 ¹ A "latex glove case" is, for purposes of this Case Management Order and this Coordination
26 Proceeding, a civil action in which a healthcare worker claims injury as a result of the use of latex
27 gloves. A case involving a healthcare worker who claims injury as a result of the use of latex
28 gloves, and who in addition claims injury as a result of exposure to other latex containing
products, shall not be excluded from this Coordination Proceeding solely by virtue of the
additional exposure.

1 stipulate, in writing, to modify case-specific matters only. No stipulation shall work to alter dates
2 or deadlines set by the Court. All stipulations shall be subject to Court approval.

3 **III.**

4 **SERVICE AND DISSEMINATION OF CASE MANAGEMENT ORDERS.**

5 Case Management Order No. 1, and any additional case management orders approved by
6 the Coordination Court, shall be filed in the master file, and served upon all Liaison Counsel.
7 Liaison Counsel will ensure, to the extent possible, that all counsel representing parties in their
8 party-category will expeditiously receive copies of any case management orders.

9 **IV.**

10 **STATUS OF CALIFORNIA LATEX GLOVE CASES: STAY ORDERS.**

11 Pursuant to the order of Judge William C. Pate, dated May 13, 1997, all California latex
12 glove cases identified in Exhibit "A" are stayed, except as to specific proceedings outlined in this
13 Order, or in subsequent orders, until further notice.

14 With respect to existing latex glove cases in which one or more defendants has been
15 served, which were not included in the Order of the Judicial Council dated June 20, 1997,
16 proceedings in said cases, except as modified by this Case Management Order, are subject to
17 being stayed as provided in Paragraph X(B)(1) hereof, until a determination has been made as to
18 whether they will be added on to the coordination docket, or for such additional time as the
19 Coordination Court may order. Said cases are identified in Exhibit "B" hereto.

20 All prior discovery to which responses have not been served is hereby stayed until further
21 order of Court, and all status conference dates and any trial dates previously set are hereby
22 deemed vacated.

23 The above stay orders will remain in effect until further order of Court.

24 **V.**

25 **LIAISON COUNSEL**

26 Pursuant to California Rules of Court, Rule 1506, the coordination trial judge requested
27 that the parties select "Liaison Counsel " to act as intermediaries between the Court and all parties
28

1 to the coordinated actions in the administration of the litigation. Liaison Counsel were identified
2 at the hearing.

3 **A. Party Categories Selecting Liaison Counsel.**

4 As of the date of this Case Management Order, the Liaisons chosen by the parties and
5 approved by the Court are as follows:

- 6 1. Plaintiffs - James M. Slominski, Hornberger Ghazarians & Brewer,
7 444 South Flower Street, 31st Floor, Los Angeles, California, 90071.
- 8 2. Product Liability Defendants - Robert M. Mitchell, Seyfarth, Shaw,
9 Fairweather & Geraldson, 101 California Street, Suite 2900, San Francisco,
10 California, 94111-5858.

11 **B. Duties Of Liaison Counsel.**

12 Subject to the right of any individual party to present divergent positions, the
13 Liaison Counsel appointed herein are vested with the following responsibilities and duties:

- 14 1. To communicate with all other counsel and to receive orders, notices and
15 correspondence from the Court in matters pertaining to the Master File and to notify all counsel
16 for which it serves as liaison of all such communications; and
- 17 2. To perform such other duties as may be expressly authorized by further
18 order of the Court in accordance with the provisions of California Rules of Court, Rule 1500(1).

19 Liaison Counsel will not have authority to bind their respective groups absent
20 express authority provided by those parties comprising said groups. No order shall be entered
21 based solely upon discussions that the Court may have with Liaison Counsel, without notice to all
22 counsel of record.

23 **C. Removal Of Liaison Counsel.**

24 The coordination trial judge, on his own motion or on the motion of any party, may
25 remove any Liaison Counsel from that position for good cause shown. In that event, the
26 appropriate parties from the category of the removed Liaison Counsel shall select a new
27 Liaison Counsel replacement for that category. The new Liaison Counsel shall be identified to the
28 Court in writing no later than five days from the effective date of the previous Liaison Counsel's

1 removal. Notwithstanding the foregoing, a party category may, by a two-thirds majority vote of
2 its members, remove and/or substitute its own Liaison Counsel.

3 **D. Individual Or Separate Actions Preserved.**

4 Any counsel who disagrees with Liaison Counsel (or those acting for him/her) or
5 who have individual or divergent positions may make written and oral argument, and otherwise
6 act separately, as appropriate. However, such counsel shall not repeat or make, ask, or take
7 substantially the same arguments, questions, or actions of Liaison Counsel (or those acting on
8 his/her behalf).

9 **E. Committees.**

10 The parties to this litigation may, formally or informally, create "committees" or other
11 cooperative arrangements as they see fit. The coordination trial judge recognizes that cooperation
12 among counsel and the parties is essential for the orderly and expeditious resolution of the
13 litigation. The communication, transmission or dissemination of information among plaintiffs'
14 counsel, among defendants' counsel, or among the parties, shall not be deemed a waiver of the
15 attorney-client privilege, the protections afforded by the attorney work product doctrine, the
16 protections afforded to material prepared for litigation or any other privilege to which a party may
17 be entitled. Likewise, this order is not intended to create new privileges, or expand existing ones.
18 Any cooperative efforts shall not in any way be used against any of the parties, be cited as
19 purported evidence of conspiracy, wrongful action or wrongful conduct, and shall not be
20 communicated to or used as evidence before any trier of fact. Nothing contained in this provision
21 shall be construed to limit the rights of any party or counsel to assert the attorney-client or joint
22 defense privilege, or the attorney work-product doctrine.

23 **VI.**

24 **ADMISSION OF ATTORNEYS**

25 Any attorney designated by a party, and admitted to practice before a court of general
26 jurisdiction in one of the 50 states, but who is not a member of the bar of California, shall comply
27 with the requirements of California Rules of Court, Rule 983 before appearing *pro hac vice* in
28 connection with these actions.

VII.

FILE ADMINISTRATION

The coordination trial court will maintain a master latex glove coordination file bearing number JCCP 4003. This master file, and case files for each individual coordinated action, will be maintained in Department 38 of the San Diego Superior Court, located at 330 West Broadway, San Diego, California.

All generic orders, pleadings, motions, and other similar documents shall be filed in the master file. A document is "generic" where it directly affects multiple coordinated latex glove cases. Where a document relates to multiple coordinated cases, the caption should read as follows:

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

IN RE COORDINATED LATEX GLOVE)	JCCP 4003
LITIGATION)	
_____)	
GENERIC FILING)	
_____)	

A document filed in the master file shall be deemed to have been filed in each individual case to which the filing party is an operative party and shall constitute part of the record of each case so described unless the Court orders otherwise. The filing of a motion or document in the master file and/or the appearance of counsel for a party at a motion and/or hearing shall not confer standing upon the party where it does not otherwise exist.

The Coordination Court will assign cases individual coordination file numbers. When a document which requires filing is applicable only to an individual case, the caption shall indicate the name of the individual case involved, and shall include (1) the master coordination number, (2) the individual coordination file number which shall be listed in conjunction with the master

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number, and (3) the case number assigned by the "home jurisdiction", as follows:

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

IN RE COORDINATED LATEX GLOVE LITIGATION)	JCCP 4003-000
)	LASC NO. C00000
<hr/>		
JANE DOE,)	
)	
Plaintiff,)	
)	
v.)	
)	
ROE MANUFACTURING CORP., et al.,)	
)	
Defendants.)	
<hr/>		

VIII.

SERVICE

A. Service Of Pleadings, Orders, And Other Documents.

1. Generic Documents.

An order, pleading, motion, brief, or other document captioned as a "generic filing" and filed in the Court's master file shall be served on all Liaison Counsel. Service upon Liaison Counsel will be deemed effective on all parties. Liaison Counsel are responsible for promptly distributing copies to those parties for whom they are acting as Liaison Counsel and for providing a convenient, inexpensive means by which any other parties for whom they are acting can obtain copies if desired. The respective party-categories shall be responsible for determining the manner in which Liaison Counsel shall be reimbursed for photocopying and postage expenses. To allow for any potential delay in the transmittal of such documents from Liaison Counsel to interested parties, the requirements for mail or personal service set forth in applicable statutes, rules of court, and local rules shall be enlarged by two units (i.e., days or "court days").

2. Case Specific Documents.

Documents which require service, but which relate only to a specific case or group of cases, and which would not be of interest except to the parties directly affected by them, shall

1 be served directly on the interested parties in accordance with applicable provisions of the Code of
2 Civil Procedure.

3 **IX.**

4 **GENERAL ORDERS**

5 **A. Use Of General Orders.**

6 To the extent possible, the coordination court will resolve questions of law and procedure
7 which impact most or all of the coordinated cases by issuing general orders. General orders may
8 be considered based on the motion of any party, or on the Court's own motion, but in no event
9 shall a general order be issued without notice to all potentially affected parties, and said parties
10 shall be given a reasonable opportunity to oppose any proposed order.

11 **B. Procedure.**

12 **1. Motion.**

13 Any party to the litigation may reserve a hearing date for a "Motion for General
14 Order" by contacting Rita Rodriguez, the Department 38 Calendar Clerk, at (619)685-6050. Said
15 Motion shall then be filed in the Court's master file, and shall be served on all Liaison Counsel,
16 who will provide copies to members of their party-category, in accordance with previous sections
17 of this Case Management Order.

18 **2. Notice.**

19 Any such motion shall be filed, noticed and heard in the same manner as any other
20 motion in accordance with applicable provisions of the Code of Civil Procedure, Rules of Court
21 and local rules, unless the Court orders otherwise.

22 **3. Notice Of Ruling.**

23 Unless the Court orders otherwise, the Court's minute orders will serve as the
24 formal order of the Court. No further order will be required. However, it shall be the
25 responsibility of the prevailing party(ies) to obtain a copy of the minute order and serve a Notice
26 of Ruling, with the Order attached, on all Liaison Counsel. General Orders shall be filed in the
27 Court's master file in sequential order (i.e., "General Order No. 1", "General Order No. 2").
28

1 X.

2 **ADDING CASES ON TO THE COORDINATED PROCEEDINGS**

3 **A. Add-On Procedures -- In General.**

4 The following rules are intended to streamline and modify, but do not supersede, the add-
5 on procedures outlined in the California Rules of Court, and any party is free to utilize the petition
6 procedures outlined therein. The alternative procedures articulated in this Case Management
7 Order are designed to maximize the expeditious identification of cases which potentially qualify
8 for coordination, and the determination of whether such individual cases should be so
9 coordinated.

10 **B. Streamlined Add-On Procedures For Judicial Council Coordination**
11 **Proceeding No. 4003.**

12 The procedures for adding new latex glove cases on to the list of coordinated actions will
13 depend on when a particular latex glove complaint is filed and/or served.

14 **1. Latex Glove Cases Filed And Served Prior to June 20, 1997.**

15 **a. Procedure**

16 Liaison Counsel for the product liability defendants filed with the
17 coordination trial court a joint "petition for coordination" pursuant to California Code of Civil
18 Procedure, §§ 404, *et seq*, on July 22, 1997, which is set for hearing on September 5, 1997. It was
19 agreed that the petition include (1) a declaration of counsel providing a brief summary of the
20 collective nature of the included actions, generally indicating that said actions meet the criteria for
21 inclusion into JCCP-4003 pursuant to Code of Civil Procedure, §404.1, (2) an alphabetical "short-
22 caption" listing of all known latex glove cases filed and served on one or more product liability
23 defendants prior to June 20, 1997, (3) the "home" jurisdiction of each case, (4) the "home"
24 jurisdiction case number, and (5) the law firm representing plaintiffs, or an indication that the
25 plaintiff is in *pro per*.

26 It was further agreed that a copy of the petition would be filed with the clerk of the
27 Superior Court department in each county where cases which are the subject of the petition are
28 venued. A copy was to be submitted to the Judicial Council. Copies of the petition were also to

1 be served upon all Liaison Counsel, and on each firm representing plaintiffs in cases identified
2 therein. Filing of the petition shall serve to stay all proceedings in the case, other than service of
3 process on defendants and challenges to the pleadings, pending resolution of the issue of
4 coordination.

5 **b. Opposition.**

6 Any party to a case identified in the joint petition for coordination who
7 opposes coordination may file in the coordination court, and serve on all parties in the case at
8 issue, a notice of opposition within fifteen (15) days after service of the petition. Where a notice
9 of opposition is filed, determination of coordination shall be adjudicated by the coordination
10 court. The party opposing coordination shall submit points and authorities and other relevant
11 materials in support of that opposition no later than fifteen (15) days before the date of the
12 hearing. Responding points and authorities shall be filed and served no later than five (5) days
13 prior to the hearing.

14 **c. Assignment Of Coordination File Number.**

15 The Court will assign individual coordination case file numbers to each
16 action identified in the Petition filed by Defendants, and will provide a listing of those file
17 numbers to Liaison Counsel, who will notify all interested parties within the party-category of
18 same. Any further proceedings concerning individual cases shall include a caption reference to
19 the coordination file number as outlined in section VII of this Order.

20 **d. Coordination.**

21 All cases identified in the petition which are not the subject of a notice of
22 opposition filed within the time specified in Section (B)(1)(b) may be coordinated upon order of
23 the Court without further hearing. In such cases, the coordination court will take the necessary
24 steps to add said cases on to the coordination docket. The Court will also notify the Judicial
25 Council of any add-on case and will arrange for transfer of the files from their home jurisdictions.

26 **2. Latex Glove Cases Filed Or Served After June 20, 1997.**

27 Identification of latex glove cases filed but not served on any product liability defendant
28 prior to June 20, 1997, or filed and/or served after that date, shall be effectuated, and a

1 determination of whether said cases shall be coordinated, shall proceed as set forth in paragraphs
2 B(1)(a)-(d), above, on a case-by-case basis. If a plaintiff does not file an opposition to
3 coordination the case may be coordinated upon order of the Court without further hearing. In
4 such cases, the coordination court will take the necessary steps to add said cases on to the
5 coordination docket. The Court will also notify the Judicial Council of any add-on case and will
6 arrange for transfer of the files from their home jurisdictions.

7 Where a party submits notice of opposition to coordination, the Coordination Court will
8 set a hearing for determination of the issue and will provide notice of the hearing date to the party
9 opposing coordination. Said hearing shall in no event be scheduled any earlier than forty-five (45)
10 days from the date on which the first product liability defendant is served in the case. The
11 opposing party shall notify all parties who have been served in the case of the hearing date in
12 writing. All other procedures concerning opposition to coordination shall be governed by
13 applicable sections of the Rules of Court.

14 This Order is effective *nunc pro tunc* to the date of its original submission to the Court,
15 July 18, 1997.

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18 DATED: August 13, 1997

19 William C. Pate
20 Coordination Trial Judge
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